

**FINAL STATEMENT OF REASONS FOR THE AMENDMENT OF SECTION
8600 OF TITLE 14 OF THE CALIFORNIA CODE OF REGULATIONS:
RESPONSE TO PUBLIC COMMENTS WITH 15-DAY NOTICE OF
AVAILABILITY OF AMENDED TEXT**

The following are the Department of Boating and Waterways response to FPPC's comments received on August 5, 2002 and October 17, 2002 pertaining to proposed amendments to Section 8600 of Title 14 of the California Code of Regulations. Also, we have also enclosed the 15-Day Notice of Availability to our Conflict of Interest Code that was mailed to all affected or interested parties.

- 1. FPPC comment one:** In the second paragraph of Section 8600, we recommend that you delete the text, "(b) (4) Section 4" that follows the underlined text, "Title 2 of the California Code of Regulations Section 18730," By eliminating this reference to this subsection of 18730 it should reduce the need to make minor amendments in the future if the Government Code is amended.

DBW response to FPPC comment one: We have made the recommended change, for the reason FPPC suggested.

- 2. FPPC comment two:** In the Section 8600 Appendix, the department's "division headings" should use bold face for these headings and the font should also be consistent, e.g., the headings do not use bold face and are therefore difficult to read or discriminate, and the font should be consistent because some of the fonts used in these headings are italicized while others are not.

DBW response to FPPC comment two: We have changed the font to bold face font to highlight each division heading to facilitate readability and we have changed the italicized font to non-italicized.

- 3. FPPC comment three:** In the Section 8600 Appendix, there are several positions listed that appear to be double entries, for example, under the heading of Facilities Division, the entry for CEA/Division Chief should be listed as two separate entries, under the heading of Administrative Services Division, the entry for Staff Services Manager/Division Chief should be listed as two separate entries, and under the heading Boating Operations Division, the entries for Staff Services Manager/Division Chief should be listed as two separate entries.

DBW response to FPPC comment three: We have not incorporated the changes suggested in FPPC comment three because the double entries noted above were intentional to show both the organization and division title, as well as the civil service title for each division chief position noted therein.

12. FPPC comment four: We suggest that you add a statement creating a specialized disclosure category required for consultants allowing the Director of Boating and Waterways to determine on a case-by-case basis what disclosure, if any, is required by any particular consultant.

DBW Response to FPPC comment four: We have made the suggested change to the appendix that contains the consultant disclosure information found in the FPPC information letter faxed to our department. Also the consultant positions are listed as a category 1 disclosure, per your recommendation.

5. FPPC comment five: The proposed code contains only two disclosure categories: category 1 is full disclosure and is assigned only to the Director and Deputy Director and category 2 is more limited and assigned to everyone else. We think your code should contain more disclosure categories that would more narrowly target different employees and the decision-making authority.

DBW Response to comment five: We disagree with this comment, in general. We are a small agency with approximately 87 employees. We believe that adding beyond the two existing categories would make the code unnecessarily complex.

6. FPPC comment six: Disclosure category 2 (see appendix) uses the phrase “foreseeably may be subject to any laws” and “foreseeably may contract.” This type of language may require your employees to try to anticipate what may happen. We suggest using different language such as “of the type.”

DBW response to comment six: We concur. We have made the amendments suggested by FPPC. Please refer to text of amended regulation.

7. FPPC comment seven: It appears your agency is adding about 25 positions that were previously included under the general classification “project manager.” We would like to see duty statements for these positions.

DBW response to comment seven: We have forwarded the duty statements requested and we are also adding them to our rulemaking file for availability of public inspection.

8. FPPC comment eight: Out of the six new positions being added, it appears we are missing the duty statement for the Environmental Specialist in the Boating Facilities Division.

Response to comment eight: We have amended the position title to read “Environmental Scientist”, as well as changed the appendix to the

regulation. We have enclosed the duty statement within the Facilities Division duty statements you requested.

9. FPPC comment nine: Should Staff Counsel be assigned category 1?

Response to comment nine: No, we believe that category 2 is adequate based on Staff Counsel's duties with the department.

10. FPPC comment ten: Why are you deleting the Special Assistant to the Director, has this position been eliminated?

Response to comment ten: Yes, the position has been eliminated and it is not anticipated that we reinstate the position.

11. FPPC comment eleven: Are your SSA's making government decisions? If so, you may want to include them in a narrower category.

Response to comment eleven: We do not see a need for a narrower category at this time.

12. FPPC comment twelve: We need something in writing indicating whether your agency received any public comments on the proposed amendments (see regulation 18750 (e) (1) (A) and (B)).

Response to comment twelve: No comments were received from any other parties.

15- DAY NOTICE OF AVAILABILITY OF AMENDED CONFLICT OF INTEREST REGULATIONS

December 6, 2002

Dear Interested Party:

This is to inform you that we are revising the Department of Boating and Waterways proposed regulations in response to comments that we received during the comment period, for our Conflict of Interest Code, as originally proposed on January 25, 2002, in the California Regulatory Notice Register (Register 2002, NO. 4-Z).

In accordance with the provisions of Section 11346.8 (c) of the Government Code and Section 44 of Title 1 of the California Code of Regulations, we are informing all persons who submitted comments and other interested members of the public of the "15-day notice of availability" of the modified text of the proposed regulations. Persons should make comments pertaining only to the new modifications. (Note: a copy of the modified regulations is enclosed.)

The time period for providing any comments to the Department related to the modifications to the text of the proposed regulations will commence on December 9, 2002. Comments must be received no later than 5:00 p.m., on December 23, 2002. The comments should be addressed to Mike Sotelo, Associate Governmental Program Analyst, Regulations Unit, Department of Boating and Waterways, 2000 Evergreen Street, Suite 100, Sacramento, California 95815.

The revised proposed regulations and our rulemaking file will also be available for public inspection at the Department of Boating and Waterways, 2000 Evergreen Street, Suite 100, Sacramento, California 95815.

If you have any questions, please contact me at (916) 263-0787.

Sincerely,

Mike Sotelo
Associate Governmental Program Analyst
Regulations Unit

**15-DAY NOTICE OF AVAILABILITY OF AMENDED OR MODIFIED TEXT OF
PROPOSED REGULATION PERTAINING TO THE DEPARTMENT'S
CONFLICT OF INTEREST CODE**

In accordance with the provisions of Section 11346.8 (c) of the Government Code and Section 44 of Title 1 of the California Code of Regulations, the Department is informing members of the interested public of the 15-day notice of availability of the *revised or amended text* of the proposed regulations (*a copy of the amended text of the proposed regulations is enclosed*). Comments that the Department receives pertaining to these changes should identify the revised or amended text by specific section number.

The time period for providing the comments to the Department concerning the *revised or amended text* will commence on December 9, 2002. Comments must be received no later than 5:00 p.m., on December 23, 2002 at the Department of Boating and Waterways, 2000 Evergreen Street, Suite 100, Sacramento, California 95815.

The revised proposed regulations, and our rulemaking file, will also be available for public inspection at the Department of Boating and Waterways, 2000 Evergreen Street, Suite 100, Sacramento, California 95815.

In summary, we are proposing to make the following amendments to the Department's Conflict of Interest Code:

(a): In the second paragraph of Section 8600, we have deleted the text that reads "(b) (4) Section 4" after the underlined text, "Title 2 of the California Code of Regulations Section 18730," to eliminate the need to do minor amendments to this regulation if the Government Code is later amended. This was an editorial amendment with no regulatory effect to the originally proposed amendments.

(b) In the Appendix to Section 8600, the "division" headings were bolded and the font was made uniform because some of the font was italicized and some of the font was not. These were non-substantial amendments made for consistency of appearance and to facilitate identification of each division. These changes were solely amendments with no regulatory effect to the originally proposed amendments.

(c) A statement was added at the beginning of the category descriptions in the appendix to Section 8600. This statement informs the reader that a specialized disclosure category for consultants was created which allows the Director of the Department of Boating and Waterways to determine on a case-by-case basis, what disclosure category, if any, is appropriate for any particular consultant. This statement was added for consistency with the Political Reform Act (Gov. Code

81000-91015), as noted in an information letter we received from the Fair Political Practices Commission, Technical Assistance Unit.

(d) Editorial non-substantial amendments, were made to the text of Section 8600, Appendix, "Disclosure Categories," i.e., categories 1 and 2, as follows:

- (1) Under category 1, line 1, the words, "Each person in a category 1..." were amended to read, "Every person in Category 1..." Also, the phrase "including gifts, loans, and travel payments" were parenthetically added after the word "income" to clarify examples of income for reporting or disclosure purposes.
- (2) Under category 2, line 1, the words, "Each person in category 2..." were amended to read, "Every person in Category 2..." Also, the phrase "including gifts, loans, and travel payments" were parenthetically added after the word "income" to clarify examples of income for reporting or disclosure purposes.
- (3) Under category 2, subsection (a), line 1, the words, "Subject to or foreseeably may be" were deleted and the words "of the type" were substituted in front of the word "subject to any laws of the State of California," as an editorial correction, because the Fair Political Practices Commission pointed out in its comments that persons filling out disclosure statements could not anticipate future changes in State laws. On line 4 of this subsection, the word, "waterways" was capitalized.
- (4) Under category 2, subsection (b), line 1, the words, "One which has contracted, or in the future foreseeably may" before the word "contract" was amended to read "of the type which contracts with" because the Fair Political Practices Commission pointed out in its comments that persons filling out disclosure statements could not anticipate whether a business is likely to contract with the Department to provide such services, supplies, materials, machinery, instrumentation or equipment to the to the Department in the future.
- (5) Under category 2, subsection (c), line 1, the word, "Associated," with an upper case initial letter was changed to, "associated," with a lower case letter for an editorial, grammatical correction. Also the comma after the word "boating" is deleted for grammatical purposes
- (6) Under category 2, subsection (d), line 1, the word, "Regularly," with an upper case initial letter was changed to, "regularly," with a lower case letter for editorial, grammatical correction.

- (7) Under category 2, subsection (e), line 1, the word, “An,” with an upper case initial letter was changed to, “an,” with a lower case letter for an editorial, grammatical correction.

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